

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8233 of 2006

Jayram P. Pawar & Anr. .. Petitioners
versus

Asstt. Registrar for Co-op.Societies

Tasgaon & ors. .. Respondents

...

Mr.P.D. Dalvi for the petitioner.

Ms.S.S. Bhende, AGP for respondent nos.1,5, and 6.

Mr.Umesh R. Mankapure for respondent no.2.

CORAM : D.G.KARNIK, J

DATED : 7th September 2007

ORAL JUDGEMENT:-

1. Heard learned counsel for the parties.

2. This Writ Petition is directed against the order dated 28th September 2006 passed by the Divisional Joint Registrar refusing to condone the delay of over seven months in filing of a revision application under section 154 of the Maharashtra

Co-operative Societies Act (for short 'the Act'). Learned counsel for the petitioner submitted that as per the provisions of section 154(2A) of the Act, the petitioner was required to deposit 50% of the money but since the petitioner did not have the money to deposit, he could not file the appeal in time. In other words, the inability to deposit 50% of the decretal amount is the only ground pleaded for condonation of delay in filing of the appeal.

3. Sub-section 2A of section 154 of the Act reads as under:

154. Revisionary Powers of State Government and Registrar

(1).

(2).

(2A). No application for revision shall be entertained against the recovery certificate issued by the Registrar under section 101 unless the applicant deposits with the concerned society, fifty per cent, amount of the total amount of recoverable dues.

4. A Revision Application cannot be entertained

unless 50% of the money is deposited but there is no bar against filing of the Revision Application without depositing of the money. The bar is against entertaining i.e. hearing the Revision Application unless the money is deposited. The petitioner therefore could have filed the Revision Application even without depositing 50% but he would have been required to deposit the money before the Revision Application was entertained. Filing a Revision Application is a ministerial act performed by a party. Entertaining it is a judicial act performed by the Court/Tribunal by applying judicial mind. Keeping this distinction in mind, it is clear that the bar is not against filing a Revision Application but against entertaining it.

5. In my view, there was no bar for filing of a Revision Application and therefore inability to deposit 50% of the amount is no ground for condonation of delay. No other reason has been given in the application for condonation of a delay for not filing the Revision Application in time. In the circumstances, the impugned order is obviously right.

6. Writ Petition is therefore rejected summarily

(D.G. KARNIK, J)